

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

VISIBLE SYSTEMS CORPORATION,

Plaintiff

v.

UNISYS CORPORATION,

Defendant

C.A. No. 04-CV-11610-RGS

**PLAINTIFF VISIBLE SYSTEMS' FIRST SUPPLEMENTAL ANSWERS  
TO DEFENDANT UNISYS' FIRST SET OF INTERROGATORIES**

Plaintiff Visible Systems Corporation ("Visible") provides the following supplemental answers to Defendant Unisys Corporation ("Unisys")'s First Set of Interrogatories to Visible Systems Corporation, subject to all general objections and interrogatory-specific objections set forth in Plaintiff Visible Systems' Answers to Defendant Unisys' First Set of Interrogatories:

**INTERROGATORY NO. 18**

Please state whether you contend that any alleged wrongful conduct by Unisys in this matter was done knowingly and/or intentionally, and if so state basis (*see* Local Rule 26:5(C)(8)) for your contention.

**SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 18**

Visible's contention that Unisys Corporation acted knowingly and intentionally in its infringements of Visible's marks continues to be the subject of discovery in this action; in addition, Visible contends that the advertisement by Unisys in the June 5, 2006 issue of Forbes magazine is an infringing use of the marks VISIBLE and VISIBLE ADVANTAGE, done with full knowledge that (a) VISIBLE, VISIBLE SYSTEMS, and VISIBLE SYSTEMS

CORPORATION are registered trademarks of Visible; (b) VISIBLE ADVANTAGE is the trademark used for many years by Visible in connection with one of Visible's products; and (c) a qualified and credible expert has rendered an opinion stating that Unisys and Visible have been operating in the same market with respect to enterprise systems and software modeling, information engineering, CASE tools, enterprise architecture, and associated use of marks that include the term VISIBLE. Further uses by Unisys of the mark VISIBLE are the subject of ongoing discovery in this action and may also have been done with full knowledge of the above-stated facts. In addition, Visible's ongoing investigation has disclosed that Unisys has operated in the same market as Visible for many years, in connection with CASE (computer-aided software/systems engineering) tools including Unisys' LINC and MAPPER products and Unisys' UREP (universal repository). Unisys' extensive operations in Visible's market spanning three decades support a strong inference that Unisys has been knowledgeable about Visible's products, services and marks. Further, Visible has learned, as the result of accessing legacy databases and backups thereof, that several hundred Unisys persons downloaded or otherwise received Visible products and/or information related to Visible products and services during the time period 1989-2005. Information about these contacts, extracted from said legacy database, is set forth in the spreadsheet produced in Visible Prod (12). Visible has also learned that Unisys personnel at the Microsoft-sponsored TechEd conference in Dallas TX in June 2003 received extensive information about Visible's products and services.

#### **INTERROGATORY NO. 21**

Please state whether you have ever brought or asserted, or have ever been the subject of or defendant in, a lawsuit or other claim of trademark infringement with respect to any of your trademarks that are at issue in this case, and if so provide a detailed description of each such suit or other claim, including the identity (see Local Rule 26.5(C)(3)) of each person who made such a claim.

**SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 21**

During 2006 and since the serving of Plaintiff Visible Systems' Answers to Defendant Unisys' First Set of Interrogatories, Visible has made claims related to possible trademark infringement by AT&T's subsidiary Sterling Commerce, and Visible has opposed registration of the mark Visible Systems by Visible Assets of Mississauga, Ontario, Canada.

**INTERROGATORY NO. 22**

Please identify (see Local Rule 26.5(C)(3)) each person likely to have discoverable information concerning any actual confusion or likelihood of confusion you contend has been caused by Unisys, and each other person likely to have discoverable information in this matter, and state in detail as to each such person the subject matter(s) on which he or she is likely to have knowledge (including, with respect to any such person who is an entity or association, the identity of each natural person within the entity or association who is likely to have discoverable information).

**SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 22**

The following information is provided in supplement to that previously provided in Plaintiff's Automatic Disclosures, as referenced in Plaintiff's Answer to Interrogatory No. 22:

**Current Visible Employees**

|   |  |
|---|--|
| <b>George Cagliuso</b><br><b>Michael Cesino</b><br><b>Yvonne Fang</b><br><b>John Nash</b><br><b>Stuart Nash</b><br><b>Giselle Prinz</b><br><b>Jennifer Stone (Oneida NY office)</b> | Visible Systems Corporation<br>201 Spring Street<br>Lexington, MA 02421<br>Tel. (781) 778-0200 |
|---|--|

**Former Visible Employees**

**David Copeland**  
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**Bruce Fanning**  
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 Peabody, MA 01960

**Crystal Grossini**  
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Alexandria, VA 22315

**David G. Hughes**  
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**Michael Paul**  
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**Peter Pedulla**

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Chelmsford, MA 01824  
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**Carol Read**  
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Issaquah, WA 98007

**Ellen Shoner**  
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Brookline, MA 02445  
(o) Houseworks  
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**Persons with Knowledge of Visible and/or its Products and Services**

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**Verification:**

I, Michael Cesino, hereby state and affirm that I am President of Visible Systems Corporation and that the factual material set forth in the foregoing Plaintiff Visible Systems' First Supplemental Answers to Defendant Unisys' First Set of Interrogatories is true and accurate to the best of my knowledge and belief.

Signed under the penalties of perjury this \_\_\_ day of August 2006.

  
Michael Cesino

As to objections,

  
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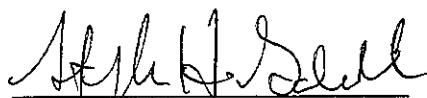
Dated: August 9, 2006

**Certificate of Service**

I hereby certify that I served this date a copy of the foregoing by hand upon:

William Boesch, Esq.  
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Counsel for Defendant Unisys Corporation

  
Stephen H. Galebach

8-9-06  
\_\_\_\_\_  
Date